

REMARKS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 1, 2, 4-10, 12-20, 22-24, 26-30, 32, 33, 35-37, 39, and 43-46 are presently pending in the present application. Claims 1, 4, 5, 10, 12-14, 17-20, 22-24, 26-30, 32, 33, 35-37, and 39 have been amended by way of the present Amendment. Claims 3, 11, 21, 25, 31, 34, 38, and 40-42 have been canceled without prejudice or disclaimer. No new matter is introduced by this amendment. (See, e.g., paragraphs [0009], [0013], [0040], and [0061] of U.S. Pub. No. 2006/0285508.)

In the Office Action, claims 1, 5-8, 10, 14-17, 19, 20, 23, 24, 32, 43, 44, and 46 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Bonomi et al.* (U.S. Patent No. 6,769,127) in view of *Pekonen* (U.S. Pub. No. 2003/0152107); claims 2, 9, 12, 18, 29, and 30 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Bonomi et al.* in view of *Pekonen* and *Perkes* (U.S. Pub. No. 2003/0110503); claims 3, 4, 11, 13, 21, 22, and 25-27 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Bonomi et al.* in view of *Pekonen* and *Paila* (U.S. Pub. No. 2003/0096614); claims 28, 33, 35-37, and 45 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Perkes* in view of *Pekonen*; claim 34 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Perkes* in view of *Pekonen* and *Paila*; and claim 39 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Perkes* in view of *Pekonen* and *Bonomi et al.*

Regarding the obviousness rejections, the Applicants respectfully request the withdrawal thereof for the reasons set forth below.

MPEP §2141 notes that the Patent Office bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. MPEP §2142 further notes that “[t]o reach a proper determination under 35 U.S.C. 103, the examiner must step backward in time and into the shoes worn by the hypothetical ‘person of ordinary skill in the art’ when the invention was unknown and just before it was made. Knowledge of applicant's disclosure must be put aside in reaching this determination, yet kept in mind in order to determine the "differences," conduct the search and evaluate the "subject matter as a whole" of the invention. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art.”

The Applicants submit that the Office Action fails to establish a *prima facie* case of obviousness for the claims as they are set forth herein, since there is no evidentiary support for the conclusion that the features recited in the claims were known at the time of the present invention. Accordingly, the Applicants request that such evidentiary support be placed on the record, or the obviousness rejections withdrawn.

Independent claim 1 of the present application recites, among other features, repeatedly causing transmission of **information relating to timing of transmissions of the service identification data and a given frequency of the channel at which the transmission of the service identification data will occur**. Independent claim 10 of the present application recites, among other features, a transmitter configured to repeatedly transmit **information relating to timing of transmissions of the service identification data and a given frequency of the channel at which the transmission of the service identification data will occur**. Independent claim 19 of the present application recites, among other features, a receiver configured to receive at least one repeated transmission of **information relating to timing of**

transmissions of service identification data and a given frequency of a channel at which the transmission of the service identification data will occur, and a tuner configured to use the information to tune to the channel at an appropriate time to decode service identification data. Independent claim 23 of the present application recites, among other features, receiving at least one repeated transmission of **information relating to timing of transmissions of service identification data and a given frequency of a channel at which the transmission of the service identification data will occur**, and using the information to tune to the channel at an appropriate time to decode service identification data. The Applicants submit that the applied references, either when taken singularly or in combination, fail to disclose or suggest all of the above features.

For the transmission of the service identification data on the channel, and for the transmission of information relating to timing of the transmissions of the service identification data, the Office Action cites *Bonomi et al.* More specifically, with regard to the transmission of information relating to timing of the transmissions of the service identification data, the Office Action cites column 18, lines 53-67, of *Bonomi et al.* This portion of *Bonomi et al.* describes a program guide that includes time slots for programs that are scheduled to be broadcast. However, the Applicants submit that these time slots are times in which the program content will be broadcast, and do not represent timing of transmission of **service identification data** that relates service components to services on that channel as recited. This portion of *Bonomi et al.* also discusses updating the program guide; however, it merely discusses performing such updates at predefined times or upon request, but does not disclose transmission or receiving transmission of **information relating to timing of transmissions of service identification data**. No such transmission of information relating to timing of a transmission of service identification data is

disclosed or suggested. Additionally, *Pekonen* does not appear to supplement this deficiency, but rather also appears to suggest the use of predefined times.

Furthermore, *Bonomi et al.* and *Pekonen*, either when taken singularly or in combination, do not disclose or suggest transmission or receiving transmission of **information relating to timing of transmissions of service identification data and a given frequency of a channel at which the transmission of the service identification data will occur**. In fact, the rejection of claim 3 in the Office Action on page 11 appears to acknowledge that neither *Bonomi et al.* nor *Pekonen* teaches similar features, but rather cites *Paila* for such a teaching. No such teaching with relation to the transmission of information relating to the transmission of service identification data is disclosed or suggested in *Bonomi et al.* and/or *Pekonen*. With regard to *Paila*, this reference discusses various methods in which a requestor can be redirected to an all-announcement channel to obtain information concerning available services. However, clearly such a teaching is distinguishable from the recited features of claims 1, 10, 19, and 23, since if such a transmission of information relating to the transmission of service identification data were made in *Paila*, then no such redirecting to an all-announcement channel would be necessary.

Accordingly, the Applicants submit that the applied references, either when taken singularly or in combination, fail to disclose or suggest all of the limitations recited in independent claims 1, 10, 19, and 23. Therefore, the Applicants respectfully request the withdrawal of the obviousness rejection of independent claims 1, 10, 19, and 23.

The claims that depend from claims 1, 10, 19, and 23 are considered allowable for the reasons advanced for their respective independent claim. These claims are further considered allowable as they recite other features of the invention that are neither disclosed nor suggested by

the applied references when those features are considered within the context of their respective independent claim.

Independent claim 28 of the present application recites, among other features, **receiving information relating to timing of transmissions of the service identification data and a given frequency of the channel at which the transmission of the service identification data will occur**. Independent claim 33 of the present application recites, among other features, a receiver configured **to receive information relating to timing of transmissions of the service identification data and a given frequency of the channel at which the transmission of the service identification data will occur**. The Applicants submit that the applied references, either when taken singularly or in combination, fail to disclose or suggest all of the above features.

For the receipt of the service identification data, the Office Action cites *Perkes*. More specifically, the Office Action cites paragraphs [0224], [0265], and [0269] of *Perkes*. This portion of *Perkes* describes a program guide that includes various services available. However, the Applicants submit that these listings do not represent timing of transmission of **service identification data** that relates service components to services on that channel as recited. This portion of *Perkes* also discusses information pushes; however, it merely discusses continuous flows of information or upon request, but does not disclose receiving **information relating to timing of transmissions of service identification data**. No such receipt of information relating to timing of a transmission of service identification data is disclosed or suggested. Additionally, as noted above, *Pekonen* does not appear to supplement this deficiency, but rather also appears to suggest the use of predefined times.

Furthermore, *Perkes* and *Pekonen*, either when taken singularly or in combination, do not disclose or suggest receiving **information relating to** timing of transmissions of service identification data and **a given frequency of a channel at which the transmission of the service identification data will occur**. In fact, the rejection of claim 34 in the Office Action on page 15 appears to acknowledge that neither *Perkes* nor *Pekonen* teaches similar features, but rather cites *Paila* for such a teaching. For the reasons discussed above with respect to claims 1, 10, 19, and 23, it is submitted that *Paila* fails to disclose or suggest the above feature.

Accordingly, the Applicants submit that the applied references, either when taken singularly or in combination, fail to disclose or suggest all of the limitations recited in independent claims 28 and 33. Therefore, the Applicants respectfully request the withdrawal of the obviousness rejection of independent claims 28 and 33.

The claims that depend from claims 28 and 33 are considered allowable for the reasons advanced for their respective independent claim. These claims are further considered allowable as they recite other features of the invention that are neither disclosed nor suggested by the applied references when those features are considered within the context of their respective independent claim.

Therefore, the present application is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 519-9957 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper,

including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

DITTHAVONG MORI & STEINER, P.C.

November 24, 2009

Date

/Christopher D. Ward/

Christopher D. Ward

Attorney/Agent for Applicant(s)

Reg. No. 41,367

Phouphanomketh Ditthavong

Attorney/Agent for Applicant(s)

Reg. No. 44,658

918 Prince Street
Alexandria, VA 22314
Tel. (703) 519-9957
Fax (703) 519-9958